IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6934 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

R G ANANDANI

Versus

GUJARAT WATER SUPPLY & SEWERAGE BOARD

Appearance:

1. Special Civil Application No. 6934 of 1990

MR YN OZA for Petitioners No. 1-3

RULE SERVED BY DS for Respondent No. 1

GOVERNMENT PLEADER for Respondent No. 2

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 18/01/2002

ORAL JUDGEMENT

The petitioner has preferred this petition challenging the order, dated 21.6.90 passed by the

respondents rejecting the representation of the petitioner and with a further prayer to direct the respondent authorities to pay to the petitioner revised and regular payscale for the period of suspension undergone by the petitioner.

2. Upon a bare perusal of the order, dated 21.6.90, copy whereof is produced at annexure "E" to the petition, it is clear that the Chief Administrative Officer of Gujarat Water Supply & Sewerage Board has rejected the representation of the petitioner on the ground that since neither the departmental inquiry is over nor the criminal proceedings are concluded, the question of regularisation of the period during which the petitioner remained under suspension does not arise and it is observed that since question in respect of the period during which the petitioner remained under suspension is not considered, at this stage, the request of the petitioner to release any annual increment does not arise.

3. When this matter came up for final hearing before this court in the year 2002 neither counsel for the petitioner nor the respondents are able to inform to this court about what happened to the proceedings of departmental inquiry and the criminal proceedings and whether the departmental inquiry or the criminal proceedings are over or not. The fact remains that until the departmental inquiry is concluded or until the criminal proceedings are concluded on the basis of which the petitioner was placed under suspension, there is no question of regularisation of the period during which the petitioner remained under suspension because the said aspect is required to be considered by the competent authority at the time of conclusion of proceedings and disciplinary action or any further action after the conclusion of criminal proceedings. Since such stage has not reached, it can not be said that the order dated 21.6.90 which is challenged in this petition is illegal. Further since the departmental inquiry is not over and the criminal proceedings are not concluded the respondents can not be directed to pay to the petitioner any revised or regular payscale for the period of suspension undergone by the petitioner. Therefore, the order dated 21.6.90 at the time when the petition was filed is perfectly legal and valid and same is not required to be interfered with.

4. However, it is clarified that as and when the competent authority takes decision at the conclusion of the departmental inquiry or at the conclusion of criminal proceedings, it will be open to the petitioner to make a

representation for regularisation of his period during which he remained under suspension and if such a representation is made the authority concerned will be at liberty to take appropriate decision in accordance with law.

5. Subject to aforesaid clarification, this petition is dismissed. There shall be no order as to costs.

18.1.2002 (JAYANT PATEL,J)